

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| JOHN L. CRUISE, JR., BRIAN CONRAD, | : |
| KENNETH J. DIBBLE, MATTHEW A. EIRICH, | : |
| MICHAEL KOLOGY, PETER J. KROL, | : |
| EDGAR VELLOTTI, | : |
| | : |
| Plaintiffs, | : |
| | : |
| - against - | : |
| | : |
| MICHAEL J. DOYLE, as General Chairman, LOCAL | : |
| DIVISION 9, LOCOMOTIVE ENGINEERS, | : |
| ASSOCIATION OF COMMUTER RAIL EMPLOYEES, | : |
| LOCAL DIVISION 9, LOCOMOTIVE ENGINEER | : |
| ASSOCIATION OF COMMUTER RAIL EMPLOYEES, | : |
| and MTA METRO-NORTH RAILROAD, | : |
| | : |
| Defendants. | : |
| | : |
| ----- X | |

**NOTICE OF DEFENDANT
ACRE'S MOTION FOR
JUDGMENT ON THE
PLEADINGS PURSUANT
TO FED. R. CIV. P. 12(c)**

07-CV-3940
(Pauley, J)
(Pitman, MJ)

PLEASE TAKE NOTICE that upon the attached declaration of Vincent F. O'Hara, the exhibits annexed thereto, and the supporting memorandum of law, pursuant to Federal Rule of Civil Procedure 12(c) and Local Rules 6.1 and 7.1 of the Southern District of New York, Defendants Michael F. Doyle (sued herein as Michael J. Doyle), as General Chairman of the Local Division 9, Locomotive Engineers, Association of Commuter Rail Employees ("DOYLE") and the Association of Commuter Rail Employees ("ACRE") (collectively "ACRE"), by their attorney, will move this Court before the Honorable William H. Pauley, III, District Judge, United States District Court, Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, on July 18, 2008 at 11:15 a.m. in Courtroom 11D, pursuant to this Court's April 28, 2008 Order, for the following:

(a) an Order granting judgment in favor of Defendant ACRE pursuant to FED. R. Civ. P. R. 12(c) and dismissing the Complaint on the grounds that: (1) Plaintiffs' First Cause of Action was previously dismissed by this Court and is time barred; (2) Plaintiffs' Second Cause of Action fails to state a claim for the breach of the duty of fair representation; and (3) Plaintiffs' Third Cause of Action fails to state a claim for a breach of the ACRE Constitution; and

(b) for such other and further relief as this Court deems just and proper, including attorneys' fees for having to seek dismissal of the First Cause of Action which was previously dismissed by this Court.

Dated: New York, New York
May 23, 2008

Respectfully submitted,

HOLM & O'HARA LLP
Attorneys for Defendants
Michael F. Doyle, sued herein as Michael J.
Doyle, as General Chairman, Local
Division 9, Locomotive Engineers, and
Association of Commuter Rail Employees

By: /s/ Vincent F. O'Hara
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